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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,380	04/04/2001	Carl-Eric Ohlson	1166/61926-A	7391
23432	7590	02/09/2005	EXAMINER	
COOPER & DUNHAM, LLP 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			HO, ALLEN C	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,380

Applicant(s)

OHLSON, CARL-ERIC

Examiner

Allen C. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/776,392.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Fig. 21 is not mentioned in the Specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20, 23, 25, and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 20, 23, 25, and 27 recite a solid-state detecting portion formed by plural solid state detecting elements. The original specification disclosed a filmless system in which images are produced and stored electronically (column 8, lines 19-27); there is no support for a solid-state detecting portion formed by plural solid state detecting elements.

Reissue Applications

4. The reissue oath/declaration filed with this application is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

MPEP § 1414, section II, paragraph (D), states:

Where a continuation reissue application is filed with a copy of the reissue oath/declaration from the parent reissue application, and the parent reissue application is not to be abandoned,.... improper under 35 U.S.C. 251. The examiner should reject the claims of the continuation reissue application under 35 U.S.C. 251 as being based on an oath/declaration that does not identify an error being corrected by the continuation reissue application, and should require a new oath/declaration.

Furthermore, 37 CFR § 1.175, paragraph (e), states:

The filing of any continuation reissue application which does not replace its parent reissue application must include an oath or declaration which, pursuant to paragraph (a)(1) of this section, identifies at least one error in the original patent which has not been corrected by the parent reissue application or an earlier reissue application. All other requirements relating to oaths or declarations must also be met. [paragraph (e) added, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

In the present continuation reissue application, although not verbatim, the error identified in the oath/declaration is identical to the error relied upon as the basis to support the parent reissue application. As such, it cannot be relied upon as a basis to support the continuation reissue application in accord with 37 CFR § 1.175, paragraph (e).

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5. Claims 20-28 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action.

6. Claims 20, 23, 25, and 27 are rejected under 35 U.S.C. 251 as being based upon new matter added to the patent for which reissue is sought. The added material which is not supported by the prior patent is as follows:

Claims 20, 23, 25, and 27 recite a solid-state detecting portion formed by plural solid-state detecting elements. The original specification disclosed a filmless system in which images are produced and stored electronically (column 8, lines 19-27); there is no support for a solid-state detecting portion formed by plural solid-state detecting elements.

Response to Arguments

7. Applicant's arguments filed 28 December 2004 with respect to respect to claims 24 and 28 have been fully considered and are persuasive. The rejection of claims 24 and 28 under 35 U.S.C. 112 first paragraph has been withdrawn.

8. Applicant's arguments filed 28 December 2004 have been fully considered but they are not persuasive.

The Applicant argues the original disclosure supports a solid-state detecting portion formed by plural solid-state detecting elements. To support this assertion, the Applicant cites the Technical Field and several references disclosed by the Applicant. However, none of these references are relevant to the issue at hand because these references are not part of the original

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disclosure. The applicant only disclosed a filmless system where the images are produced and stored electronically. A person skilled in the art would recognize there are many types of filmless systems that do not comprise plural solid-state detecting elements. As an example, an array of ionization gas chambers would qualify as a filmless system. Accordingly, the rejection of claims 20, 23, 25, and 27 is being maintained.

The Applicant further argues that the declaration in the reissue application is not defective since both a continuation reissue application and its parent reissue application can be directed to the error that the original patent fails to claim subject matter that the applicant is entitled to claim. The examiner respectfully disagrees. As stated in MPEP § 1414, section II, paragraph (D), the error identified in the parent reissue application cannot be relied upon to support a continuation reissue application; a new oath/declaration identifying a new error is required under 35 U.S.C. 251. Furthermore, 37 CFR § 1.175, paragraph (e), requires the applicant to identify at least one error in the original patent which has not been corrected by the parent reissue application or an earlier reissue application. Accordingly, the rejection of claims 20-28 under 35 U.S.C. 251 is being maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen C. Ho
Patent Examiner
Art Unit 2882

04 February 2005